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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,902

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Max Stanford Tomlinson JR.

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EXAMINER

COBANOGLU, DILEK B

ART UNIT

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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/782,902	Applicant(s) TOMLINSON ET AL.	
	Examiner DILEK B. COBANOGLU	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/16/2009 has been entered.

Specification

New Matter

2. The amendment filed 3/16/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The newly added recitation of: a server system, which comprising: a receiving unit; a storage unit; an authorizing unit; a first enabling unit; a second enabling unit; notifying unit; and determination unit within claims 30-32. In particular, Applicant does not point to, nor was the Examiner able to find, any support for "receiving, storage, authorizing, a first enabling, a second enabling, notifying and determination units" within the specification as originally filed. The present specification recites "FIG. 4 is a block diagram depicting the components of central server system 20. As shown in FIG. 4, central server system 20 includes controller 21, handler 22, master patient index (MPI) 23, database 24,

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medical data store (MDS) 25, data store 26, web tools 28 and image server 29.” In paragraph Figure 4. Applicant is respectfully requested to clarify the above issues and specifically point out support for the newly added limitations in the originally filed specification and claims.

3. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 30-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention and for the reasons set forth in the objection to the specification above.

6. Independent claim 30 and dependent claims 31 and 32 recite limitations that are new matter, as discussed above.

7. Claims 33-36 incorporate deficiencies through dependency, and are also rejected.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 17-22, 28, 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1) in view of Satoh (U.S. Patent Publication No. 2002/0059236 A1).

A. The newly added claim 17 recites a method of authorizing access to medical image data generated by one or more imaging facilities, comprising the steps of;

- i. receiving digital medical image data generated by the one or more imaging facilities via a network at a server (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- ii. storing the digital medical image data at the server (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iii. providing an authorized user with access to at least a part of the stored digital image data via an authorization process on the network (Jamroga; col. 5, lines 7-10, col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iv. enabling the authorized user to select digital image data from among the stored image data to which the authorized user has access (Jamroga; col. 12, line 66 to col. 13, line 21), and
- v. enabling the authorized user to grant an individual other than the authorized user rights to access the selected image data.

Jamroga teaches method for storing and accessing digital medical images; Jamroga fails to expressly teach enabling the authorized user to grant an individual other than the authorized user rights to access the selected image data. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach enabling the authorized user to grant an individual other than the authorized user rights to access the selected data (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

B. The newly added claim 18 recites the method according to Claim 17, further comprising a step of notifying the other individual by an email that a right to access the selected digital image data via an internet browser has been granted.

Jamroga teaches method for storing and accessing digital medical images; Jamroga fails to expressly teach notifying the other individual by an email that a right to access the selected digital

image data via an internet browser has been granted. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach notifying the other individual by an email that a right to access the selected digital image data via an internet browser has been granted (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

C. The newly added claim 19 recites the method according to Claim 17, wherein the server is remote from the one or more imaging facilities and from the authorized user (Jamroga; col. 5, lines 21-27, col. 7, lines 17-44, col. 6, line 64 to col. 7, line 17).

D. The newly added claim 20 recites the method according to Claim 17, further comprising a step of determining if the digital image data received from the one or more imaging facilities is associated with the authorized user, wherein only digital medical image data determined to be associated with the authorized user is transmitted to the server and stored at the server (Jamroga; Fig. 3-4, Fig. 11, col. 9 line 47 to col. 10 line 52. col. 12 line 66 to col. 13 line 20).

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E. The newly added claim 21 recites the method according to Claim 17, wherein the digital medical image data is transmitted from a gateway of the imaging facilities to the server using an authenticated session over a secure protocol, and wherein the digital medical image data is stored at the server in the same format as it was received from the gateway (Jamroga; Figure 4, col. 7 line 56 to col. 8 line 23).

F. The newly added claim 22 recites the method according to Claim 21, wherein the digital medical image data is received from the gateway using DICOM protocol (Jamroga; col. 10, lines 53-57).

G. The newly added claim 28 recites the method according to Claim 17, wherein there are limitations on the power of the authorized user to grant rights to access the image data to other individuals.

The obviousness of modifying the teaching of Jamroga to include the limitations on the power of the authorized user to grant rights to access the image data to other individuals (as taught by Satoh) is as addressed above in the rejection of claim 17 and incorporated herein.

H. As per newly added claims 30-35, they are system claims which repeat the same limitations of claims 17, 18, 20, 21, 27, 28, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Jamroga and Satoh disclose the underlying process steps that constitute the methods of claims 17, 18, 20, 21, 27, 28, it is respectfully submitted that they provide the underlying structural elements that perform the

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steps as well. As such, the limitations of claims 30-35 are rejected for the same reasons given above for claims 17, 18, 20, 21, 27, 28 and incorporated herein.

10. Claims 23-26, 29 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1,) Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Wood et al. (hereinafter Wood) (U.S. Patent No. 5,851,186)

A. The newly added claim 23 recites the method according to Claim 17, further comprising steps of:

- i. receiving one or more reports corresponding to the digital medical image data generated by the one or more imaging facilities and stored at the server; and
- ii. storing the one or more reports at the server, wherein the authorized user is provided access to the one or more reports via the network.

Jamroga teaches method for storing and accessing digital medical images; Jamroga fails to expressly disclose receiving one or more reports corresponding to the digital medical image data generated by the one or more imaging facilities and stored at the server and storing the one or more reports at the server. However, Wood discloses the steps of: receiving one or more reports corresponding to the digital medical image data generated by the one or more imaging facilities and stored at the server and storing the one or

more reports at the server, wherein the authorized user is provided access to the one or more reports via the network (Wood; Fig. 1, col. 2 line 60 to col. 3 line 42, col. 7, line 60 to col. 8, line 12).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of enabling diagnostic information and reports to be accessed from remote locations (Wood; col. 1, lines 43-57).

B. The newly added claim 24 recites the method according to Claim 23, wherein the report (data) is encrypted and transmitted to the server via the network using an authenticated and secure communication session (Jamroga; Fig. 2-6, 11, col. 12, line 29 to col. 13, line 21).

The obviousness of modifying the teaching of Jamroga to include receiving and storing one or more reports (as taught by Wood) is as addressed above in the rejection of claim 23 and incorporated herein.

C. The newly added claim 25 recites the method according to Claim 23, further comprising a step of providing an interface for the authorized user to grant to the other individual a right to access the stored digital medical image data and the corresponding report(s).

Jamroga teaches method for storing and accessing digital medical images; Jamroga fails to expressly teach a step of providing an interface for the authorized user to grant to the other individual a

right to access the stored digital medical image data. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach enabling the authorized user to grant an individual other than the authorized user rights to access the selected data (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

The obviousness of modifying the teaching of Jamroga to include receiving and storing one or more reports (as taught by Wood) is as addressed above in the rejection of claim 23 and incorporated herein.

D. The newly added claim 26 recites the method according to Claim 23, further comprising a step of recording access to the stored digital medical image data and corresponding reports, wherein access records for digital medical image data and corresponding reports associated with a payer are provided to the authorized user via the network (Jamroga; col. 12 line 29 to col. 13 line 20, col. 14 line 55 to col. 15 line 4).

The obviousness of modifying the teaching of Jamroga to include receiving and storing one or more reports (as taught by Wood) is as addressed above in the rejection of claim 23 and incorporated herein.

E. The newly added claim 29 recites the method, according to Claim 17, further comprising steps of:

- i. receiving an upload of one or more radiology reports corresponding to at least one of the stored digital medical image data;
- ii. linking the uploaded radiology report(s) (data in Jamroga) to a matching stored digital medical image data, so as to form a study comprised of stored digital medical image data and an associated radiology report (Jamroga; col. 12, line 66 to col. 13, line 21); and
- iii. receiving demographic data associated with the study, including information on the associated facilities, physicians and payers; wherein the authorized user is provided with access to the study and associated demographic data in the providing step (Jamroga; col. 9, lines 22-33, col. 12, line 66 to col. 13, line 21), and wherein the authorized user is enabled to grant the other individual the right to access the selected study and associated demographic data.

The obviousness of modifying the teaching of Jamroga to include receiving and storing one or more reports (as taught by Wood) is as

addressed above in the rejection of claim 23 and incorporated herein.

The obviousness of modifying the teaching of Jamroga to include the authorized user is enabled to grant the other individual the right to access the selected study and associated demographic data (as taught by Satoh) is as addressed above in the rejection of claim 17 and incorporated herein.

F. The newly added claim 36 recites the system according to Claim 30, further comprising;

- i. an unit configured to receive an upload of one or more radiology reports corresponding to at least one of the stored digital medical image data;
- ii. a linking unit configured to link the uploaded radiology report(s) to a matching stored digital medical image data, so as to form a study comprised of stored digital medical image data and an associated radiology report(s) (Jamroga; col. 12, line 66 to col. 13, line 21); and
- iii. an unit configured to receive demographic data associated with the study, including information on an associated one or more imaging facilities, physicians and payers, wherein the authorized user is provided with access to the study and associated demographic data by the authorizing unit (Jamroga; col. 9, lines 22-33, col. 12, line 66 to col. 13, line 21), and wherein the authorized user is enabled by the first and

second enabling units to grant the other individual the right to access the selected study and associated demographic data.

The obviousness of modifying the teaching of Jamroga to include receiving and storing one or more reports (as taught by Wood) is as addressed above in the rejection of claim 23 and incorporated herein.

The obviousness of modifying the teaching of Jamroga to include the authorized user is enabled to grant the other individual the right to access the selected study and associated demographic data (as taught by Satoh) is as addressed above in the rejection of claim 17 and incorporated herein.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1), Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Peled et al. (hereinafter Peled) (U.S. Patent Publication No. 2005/0066165 A1).

A. The newly added claim 27 recites the method according to Claim 17, wherein the other individual is granted a right to access the digital medical image data for a limited time.

Jamroga fails to expressly teach the other individual is granted access for a limited time. However, this feature is well known in the art, as evidenced by Peled.

In particular, Peled discloses the other individual is granted access for a limited time (Peled; paragraphs: 0123, 0351).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Peled with the motivation of protecting confidential information (Peled; abstract and paragraph: 0123).

Response to Arguments

12. Applicant's arguments filed 3/16/2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to applicant's argument about Satoh does not teach "selecting particular images to be accessed by a third party, much less enabling an authorized user to grant an individual other than the authorized user rights to access image data selected by the authorized user"; Examiner respectfully submits that Jamroga teaches "a system device and method 10, in accordance with the invention, for communicating query, storage, retrieval and delivery of digital data and images between the system device central databases 12 and participants such as myriad institutions 14, and institution satellite locations" in col. 6, line 64 to col. 7, line 16; Satoh teaches "a computer system with a mechanism for controlling the access rights for data to be used in common by multiple users" in abstract and "An object of the present invention is to provide a computer system for controlling access rights concisely in an environment

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wherein a number of users on a network use data in common. The present invention resolves the above problem. More specifically, when the reference information for data to be used in common is transmitted in communication such as an electronic mail from a granter to another user, information including the name of target data and of the user who is permitted to access the data is automatically obtained and a command granting access rights is automatically issued, so that access management data can be updated in the process of user communication.” In paragraphs 0009 and 0010. The motivation to combine these references would be to be controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Remote access medical image exchange system and methods of operation therefor US 6006191 A, System and method for restricting database access to managed object information using a permissions table that specifies access rights to the managed objects US 6236996 B1.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dilek B Cobanoglu/
Examiner, Art Unit 3626
7/8/2009